In the High Court of Judicature at Madras

Dated:18.04.2006

Coram:

The Hon'ble Mr. Justice P. SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K. SAMPATHKUMAR

Habeas Corpus Petition No.106 of 2006

P. Selvam .. Petitioner

vs.

1. The State of Tamil Nadu
   rep. by its Secretary
   Prohibition & Excise Department
   Government of Tamil Nadu
   Fort St. George
   Chennai 600 009.

2. The Commissioner of Police
   Salem City. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus calling for the entire records leading to the detention of the petitioner's friend Kizhinjavayan @ Sakthivel, S/o Subbarayan detained under Act 14/82, vide detention order dated 31.7.2005 on the file of the second respondent herein made in C.M.P No.20/GOONDA/Salem City/2005 quash the same and Consequently direct the respondents herein to produce the body and person of the said detenu before this Court and thereafter set him at liberty from Central Prison, Salem City.

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For petitioner : Ms. R. Subadra Devi

For respondents : Mr. Abudukumar Rajaratrhinam
Govt., Advocate (Crl.)

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ORDER

(Order of the Court was made by P. SATHASIVAM,J.,)

The petitioner by name P. Selvam, challenges the impugned order of detention dated 31.07.2005, detaining his friend Kizhinjavayan @ Sakthivel, as "Goonda" under Section 3 (1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, 1982 (in short "Tamil Nadu Act 14 of 1982").

2. Heard both sides.

3. Even at the foremost the learned counsel for the petitioner submitted that there was inordinate delay in considering the representation of the detenu, which vitiates the ultimate order of detention. With reference to the said claim the learned Government Advocate has placed details, which show that the representation of the detenue dated 15.01.2006 was received by the Government on 19.01.2006, reminder was sent on 20.01.2006 and remarks were received on 27.01.2006. After receipt of the remarks, the file was submitted on the same day and it was dealt with by the Under Secretary and the Deputy Secretary on 30.01.2006; order was passed by the Minister for Prohibition and Excise on 31.01.2006, rejection letter was prepared on 07.02.2006; the same was sent to the detenu on 08.02.2006 and the rejection letter was served on the detenu on 10.02.2006. As rightly pointed out though the concerned Minister has passed an order on 31.01.2006, there is no explanation or reason for not forwarding the same to the detenu till 10.02.2006. In the absence of any explanation, we hold that the delay between 31.01.2006 and 10.02.2006 is enormous. On this ground, the impugned detention order is vitiated and the same is quashed; accordingly, this petition is allowed. The order of detention impugned in the petition is set aside and the detenu is directed to be set at liberty forthwith from the custody unless he is required in connection with any other case.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Secretary to Government
   Prohibition & Excise Department
   Government of Tamil Nadu
   Fort St. George
   Chennai 600 009.

2. The Commissioner of Police
   Salem City.

3. The Superintendent
   Central Prison, Salem.

4. The Public Prosecutor
   High Court, Madras.

5. The Joint Secretary to Government
   Public (Law and Order) Department
   Fort St. George, Chennai - 600 009.

JRG(CO)
CGS/27.4.06

Order in
H.C.P.No.106 of 2006

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